

BEFORE THE KANSAS STATE BOARD OF EDUCATION

In the Matter of
the License
of Michael Burgan

16-PPC-07
OAH No. 16ED0028

FINAL ORDER

NOW, on this 14th day of June, 2016, the above-captioned matter comes for consideration by the Kansas State Board of Education (Board). Appearing for the Board are Chairman, Jim McNiece, and members, John Bacon, Kathy Busch, Carolyn Wims-Campbell, Sally Cauble, Deena Horst, Jim Porter, Steve Roberts, Janet Waugh, and Ken Willard.

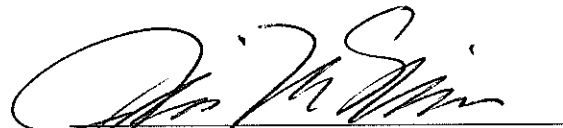
WHEREUPON, a complaint was filed by the Kansas State Department of Education and Michael Burgan had the opportunity to respond. He did not file an answer nor did he request a hearing. He did submit an e-mail to the Department. The complaint and supporting evidence, including Mr. Burgan's e-mail were considered by the Professional Practices Commission (Commission).

WHEREUPON the Board reviewed the Commission's Initial Order, and being otherwise duly advised in the premises, the Board adopts the Commission's findings of fact and its recommendation to deny Mr. Burgan's application and revoke all associated license and endorsements by a **10 – 0** vote. All findings set forth in the Commission's Initial Order attached hereto are incorporated by reference and made a part of this Final Order as though fully set forth at length herein.

IT IS THEREFORE CONCLUDED by the Kansas State Board of Education that Michael Burgan's application is denied and all license and endorsements are revoked.

This Final Order is made and entered this 14th day of June, 2016.

Kansas State Board of Education


BY: Jim McNiece, Chairman
Signed July 13, 2016

NOTICE TO APPLICANT/LICENSEE

This is a Final Order and is effective upon service.

To request reconsideration of this order, you must file a Petition for Reconsideration with the Secretary to the State Board of Education, at the address below, within 15 days after service of this Final Order. The Petition must state the specific grounds upon which relief is requested.

To request a stay of effectiveness of this order, you must file a Petition for Stay with the Secretary to the State Board of Education at the address below. A petition can be filed until the time which a petition for judicial review would no longer be timely.

To seek judicial review of a Final Order, you must file a petition in the District Court as authorized by K.S.A. 77-601, *et seq.* within 30 days following the service of the Final Order. Filing a Petition for Reconsideration is not a prerequisite for seeking judicial review. A copy of any Petition for Judicial Review must be served upon the Secretary to the State Board of Education at the address below.

Peggy Hill
Secretary, Kansas State Board of Education
Landon State Office Building
900 SW Jackson Ave. Suite 600N
Topeka, Kansas 66612

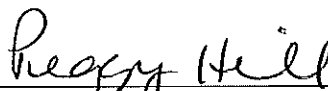
CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of July, 2016, a true and correct copy of the above and foregoing was filed with the Secretary for the Kansas State Board of Education and one (1) copy was mailed by certified mail, return receipt requested, to:

Michael Burgan
710 N. Monroe
St. John, Kansas 67576

And via interoffice mail to:

Kelli Broers
Assistant General Counsel
Kansas State Department of Education
900 SW Jackson Street, Ste. 102
Topeka, Kansas 66612



Peggy Hill, Secretary
Kansas State Board of Education

BEFORE THE KANSAS STATE DEPARTMENT OF EDUCATION

In the Matter of
the License
of Michael Burgan

Case No. 16-PPC-07
OAH No. 16ED0028

INITIAL ORDER

Statement of Case

This matter comes on for hearing before the Professional Practices Commission (Commission) of the Kansas State Department of Education (KSDE) upon the Complaint filed by the KSDE regarding the Initial License Renewal application submitted by Michael Burgan on December 16, 2015.

The hearing was held on April 25, 2016. Appearing for the Commission were chairperson, Linda Sieck, and members, Dorsey Burgess, Bradley Nicks, Tavls DeSormiers, Kimberly Groom, John McKinney, and Jessica Snider.

Mr. Burgan did not appear, however, submitted a letter, the contents of which will be discussed later in this order.

The KSDE appeared by and through its attorney, Kelli Broers.

Findings of Fact

1. Mr. Burgan has held a teaching license since 1985.
2. Mr. Burgan is currently the principal at St. John Junior and Senior High School in St. John, Kansas.
3. On May 3, 1988, Mr. Burgan appeared in criminal court in the District Court of Mitchell County, Kansas in Case No. 88-CR-16. At that appearance, Mr.

Burgan pleaded guilty to six counts of indecent solicitation of a child in violation of K.S.A. 21-3510 and two counts of making an obscene telephone proposal as defined in K.S.A. 21-4133.

4. At the time Mr. Burgan was convicted, indecent solicitation of a child was a class A misdemeanor. L. 1969, ch. 180, §21-3510.

5. On June 6, 1988, Mr. Burgan was sentenced to jail time; however, he requested and received probation, the term of which was two years.

6. On or about November 21, 1988, Mr. Burgan submitted his application to renew his license. He also applied for an additional endorsement on or about June 22, 1990. Both applications asked whether he had ever been convicted of a felony. He correctly answered no. These applications did not ask whether he had ever been convicted of a crime involving a child.

7. On or about June 11, 1993, Mr. Burgan applied for license renewal and an administration endorsement. These applications did ask whether he, the applicant, had ever been convicted of a crime involving a child. Mr. Burgan answered no, which was not accurate.

8. The application form had changed when Mr. Burgan applied for renewal in March 1997 and November 2002. It only asked whether the applicant had been convicted of a crime involving a child “[s]ince the issuance of your most recent certificate.” Mr. Burgan honestly answered no.

9. In his applications in 2005, 2007, 2009, 2011, 2012, and his most recent application in December 2015, Mr. Burgan answered “no” to the question asking whether he had “EVER been convicted of ANY crime involving theft, drugs or a child.”

10. On February 25, 2016, the KSDE filed the Complaint against Mr. Burgan seeking denial of his application based on the above-referenced criminal conduct.

11. On April 20, 2016, Mr. Burgan sent an email to Dr. Scott Myers, Director, Teacher Education and Licensure, in which he stated that he was retiring and would be working outside of education and, therefore, wanted to withdraw his application for district leadership and would not be applying for any education license in the future. He also requested that since he was retiring and would no longer apply for a license, that he be removed from the list of licenses being revoked at the Commission meeting.

12. On April 25, 2016, the KSDE presented its evidence to the Commission regarding this matter. Mr. Burgan did not appear.

Conclusions of Law
and
Discussion

1. Pursuant to K.S.A. 72-1397(a)(6), the Kansas State Board of Education (Board) is statutorily barred from knowingly renewing the license of an individual convicted of indecent solicitation of a child in violation of K.S.A. 21-3510. That prohibition has been in place since at least 1998. L. 1998, Ch. 171.

2. Had Mr. Burgan honestly completed his application in 2005, 2007, 2009, 2011, or 2012, the Board could not have renewed Mr. Burgan’s license.

3. The Board can cancel Mr. Burgan's license for any cause that would have justified the withholding of the license upon application, K.S.A. 72-1383.

4. Additionally, the Board may revoke a license for the conviction of any crime involving a minor, the commission or omission of any act that injures the health or welfare of a minor through sexual abuse or exploitation, or obtaining a license by fraudulent means or through the misrepresentation of material facts. K.A.R. 91-22-1a.

5. Pursuant to K.S.A. 72-8501, the Legislature has declared teaching and school administration to be professions in Kansas with all the similar rights, responsibilities and privileges accorded other legally recognized professions.

6. An educator is in a position of public trust.

7. Mr. Burgan's past criminal conviction and failure to disclose such conviction on his applications in 2005, 2007, 2009, 2011, 2012, and December 2015, is conduct that is inconsistent with the commonly-held perceptions and expectations of a member of the teaching profession. Such conduct violates the public trust and confidence placed in members of the profession.

8. Mr. Burgan's conduct demonstrates a lack of fitness to perform the duties and responsibilities of a member of the teaching and school administration professions and is sufficient and just cause for revoking his license and all associated endorsements.

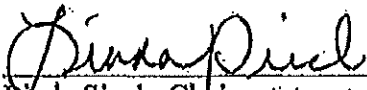
9. On a vote of 7-0, the Commission finds that Mr. Burgan's Initial License Renewal application should be denied. In addition, the Commission finds that all associated license and endorsements should be revoked.

IT IS THEREFORE RECOMMENDED by the Professional Practices Commission to the Kansas State Board of Education that the application of Mr. Burgan be denied and that all license and associated endorsements be revoked.

This Initial Order of the Professional Practices Commission is not a Final Order and is required to be reviewed by the Kansas State Board of Education in accordance with the provisions of the Kansas Administrative Procedure Act.

The applicant may submit to the Kansas State Board of Education for its consideration as a part of its review of the Initial Order, a written brief citing legal authority as to why the above recommendation should not be accepted. The legal brief must be filed with the Secretary of the Professional Practices Commission, Kansas State Department of Education, 900 SW Jackson Street, Topeka, Kansas 66612, within ten days after service of the Initial Order for transmittal to the Kansas State Board of Education.

This Initial Order is made and entered this 11 day of May, 2016.


Linda Sieck, Chairperson
Professional Practices Commission


CERTIFICATE OF SERVICE

I hereby certify that on this 12 day of May, 2016, a true and correct copy of the above and foregoing was filed with the Secretary for the Kansas State Board of Education and one (1) copy was mailed by certified mail, return receipt requested, to:

Michael Burgan
710 N. Monroe
St. John, Kansas 67576

And via interoffice mail to:

Kelli Broers
Assistant General Counsel, Kansas State Department of Education
900 SW Jackson Street, Ste. 102
Topeka, Kansas 66612



Gwen Kramer
Secretary, Professional Practices Commission